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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/716,169	12/17/1996	STEPHEN M. ANDERTON	961125	5487
	7590 05/14/200 AW FIRM, P.C.	EXAMINER		
700 KOPPERS	BUILDING		EWOLDT, GERALD R	
436 SEVENTH AVENUE PITTSBURGH, PA 15219			ART UNIT	PAPER NUMBER
			1644	
			MAIL DATE	DELIVERY MODE
			05/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)				
		08/716,169	ANDERTON ET AL.				
	Office Action Summary	Examiner	Art Unit				
		G. R. Ewoldt, Ph.D.	1644				
 Period for	The MAILING DATE of this communication ap Reply	pears on the cover sheet with the c	correspondence address				
WHICH - Extens after S - If NO p - Failure Any re	PRTENED STATUTORY PERIOD FOR REPLHEVER IS LONGER, FROM THE MAILING Discussions of time may be available under the provisions of 37 CFR 1. IX (6) MONTHS from the mailing date of this communication. Deeriod for reply is specified above, the maximum statutory period to reply within the set or extended period for reply will, by statution play received by the Office later than three months after the mailing patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status							
1)⊠ F	Responsive to communication(s) filed on <u>22 F</u>	February 2008					
·		s action is non-final.					
′ —	/ 						
,—	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositio	on of Claims	•					
- 4)⊠ (Claim(s) <u>24,28,29 <i>and</i> 31-35</u> is/are pending ir	the application					
-	4a) Of the above claim(s) is/are withdrawn from consideration.						
	5) Claim(s) is/are allowed.						
•	6) Claim(s) is/are allowed.						
·	Claim(s) is/are objected to.						
•	Claim(s) <u>24,28,29 <i>and</i> 31-35</u> are subject to re	estriction and/or election requireme	ent.				
•		othotion and or oldston requireme					
Applicatio	•						
•	9)☐ The specification is objected to by the Examiner.						
•	10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
	Applicant may not request that any objection to the	• , ,	· ,				
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11)□ T	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority ur	nder 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
2) Notice 3) Informa	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO/SB/08) No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal F 6) Other:	ate				

Application/Control Number: 08/716,169

Art Unit: 1644

DETAILED ACTION

Page 2

- 1. In view of Applicant's amendment, filed 2/28/08, this application contains claims directed to the following patentably distinct species: peptide sequences such as one of those set forth in Claim 24. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species, i.e., the peptides have different amino acid sequences. In addition, these species are not obvious variants of each other based on the current record.
- 2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently all claims are generic. There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.
- 3. Applicant is advised that the reply to this requirement to be complete <u>must</u> include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
- 4. The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the

Application/Control Number: 08/716,169

Art Unit: 1644

election, applicant must indicate which of these claims are readable on the elected species.

5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Page 3

- 6. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Gerald Ewoldt whose telephone number is 571-272-0843. The examiner can normally be reached Monday through Thursday from 7:30 am to 5:30 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara, Ph.D. can be reached on 571-272-0878.

/G.R. Ewoldt/
G.R. Ewoldt, Ph.D.
Primary Examiner
Technology Center 1600